

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
CENTRAL DIVISION

- - - - -X  
UNITED STATES OF AMERICA, :  
 :  
Plaintiff, : Criminal No. 4:14-83  
 :  
vs. :  
 :  
CARMEN HOCKING, : TRANSCRIPT OF SENTENCING  
 :  
Defendant. :  
- - - - -X

Fourth Floor, South Courtroom  
United States Courthouse  
123 East Walnut Street  
Des Moines, Iowa 50309  
Tuesday, November 17, 2015  
10:00 a.m.

BEFORE: THE HONORABLE ROBERT W. PRATT, Senior Judge.

APPEARANCES:

For the Plaintiff: KELLY E. MAHONEY, ESQ.  
Assistant U.S. Attorney  
U.S. Courthouse Annex, Suite 286  
110 East Court Avenue  
Des Moines, Iowa 50309-3899

For the Defendant: ALFREDO G. PARRISH, ESQ.  
Parrish, Kruidenier, Dunn, Boles,  
Gribble & Gentry  
2910 Grand Avenue  
Des Moines, Iowa 50312

Terri L. Martin, CSR, RPR, CRR  
United States Court Reporter  
Room 189, U.S. Courthouse  
123 East Walnut Street  
Des Moines, Iowa 50309

## E X H I B I T S

GOVERNMENT'S EXHIBIT NUMBERS:OFFEREDRECEIVED

1 - Spreadsheet for Iowa loss amounts	10	29
2 - California loss calculations relating to PSR, paragraph 17	10	29
3 - California loss calculations relating to PSR, paragraph 16a	10	29

1 P R O C E E D I N G S

2 (In open court, with defendant present.)

3 THE COURT: Please be seated.

4 Good morning.

5 MR. PARRISH: Good morning, Your Honor.

6 THE COURT: Ms. Hocking, have you had the opportunity  
7 to have read the report that was prepared in your case?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: And did you have time to talk to  
10 Mr. Parrish about the report and about the issues that are  
11 before me today?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: All right. And, Mr. Parrish, did you have  
14 the opportunity to have read the report?

15 MR. PARRISH: I have, Your Honor. I have reviewed it  
16 with Ms. Hocking on several occasions, including the most recent  
17 update with a few minor changes that came in late yesterday. We  
18 reviewed it early this morning.

19 THE COURT: All right. And I appreciate your brief  
20 that you filed. It was very detailed and helpful to me in  
21 understanding the issues.

22 Ms. Mahoney, on behalf of the United States, have you  
23 read the report in this case?

24 MS. MAHONEY: Yes, Your Honor.

25 THE COURT: Okay. And as well, Ms. Mahoney, thank you

1 for your report. And I don't know the way each of you want to  
2 proceed here. I think there's agreement on the guideline  
3 between the government and the defendant even though it differs  
4 from the presentence writer's guideline.

5 Am I understanding correctly?

6 MS. MAHONEY: Yes, Your Honor.

7 MR. PARRISH: I believe that is correct, Judge.

8 THE COURT: And my sense is that you're both right  
9 about the guideline. It's probably a matter that reasonable  
10 people could disagree on, and since I have two experienced  
11 lawyers, particularly with the guideline application, I'm going  
12 to agree that the guideline is as the plea agreement  
13 contemplated. And here is my understanding. The wire fraud  
14 offense is seven. The amount of the loss takes it to 21.  
15 There's three for acceptance, but in this case, because the  
16 defendant did cooperate so early, there was no need to convene a  
17 grand jury and, therefore, the government and the parties have  
18 agreed that there's an additional point for acceptance of  
19 responsibility.

20 So I end up at 17, and the defendant has no criminal  
21 history. So the 2015 guideline, because we're sentencing after  
22 November 1st of 2015, is 24 to 30.

23 Am I correct with both the government and the  
24 defendant?

25 MS. MAHONEY: Yes, Your Honor.

1 MR. PARRISH: That is correct, Judge.

2 THE COURT: All right. And so I'm going to find on  
3 the record that the applicable offense level is 17 after giving  
4 the defendant credit for her extraordinary acceptance of  
5 responsibility, and the Sentencing Commission would advise that  
6 the appropriate sentence is somewhere between 24 and 30. And as  
7 both of you know, that's one of the 3553(a) factors that I have  
8 to take into account.

9 So having said that, Ms. Mahoney, I'm going to proceed  
10 this way unless you or Mr. Parrish want to go some other way.  
11 You filed a motion under 5K1.1. So do you want to rest on your  
12 motion or do you want to supplement that by some remarks here  
13 this morning?

14 MS. MAHONEY: Your Honor, I would just briefly  
15 supplement it. I'm happy to answer any questions if the court  
16 has any in addition to that; but Ms. Hocking's information,  
17 essentially it helped fill in holes, a lot of holes in the  
18 investigation in California. The case out there which has  
19 charged Mark Friend is currently scheduled for trial -- there's  
20 actually a scheduling conference in December. They anticipate  
21 trial will be set in the spring, which I think may be around  
22 March or April.

23 The government is not positive they would call  
24 Ms. Hocking to testify at that trial because the case is built  
25 largely upon documents, but she may be called to testify to kind

1 of help provide, again, an overview and fill in the holes and  
2 the gaps in the documents and the case. If she were called to  
3 testify, the government would anticipate there would likely be  
4 another substantial assistance motion. Otherwise I don't  
5 believe -- I believe this would be the only motion that the  
6 government would file, and it tries to take into account the use  
7 of her information, first of all, in bringing charges but also  
8 with any potential resolution that involves her not testifying,  
9 either by trial without having to go out there to testify or if  
10 there's a plea entered.

11 So I would be happy to answer any other questions you  
12 may have about her cooperation and the motion in general, but  
13 otherwise I rest on the motion in this case.

14 THE COURT: Let me ask you, you can tell me, you've  
15 been with the office for a long time, is it often that you  
16 forego the need to convene a grand jury in a case this serious  
17 or is this extraordinary?

18 MS. MAHONEY: No, I think it was extraordinary.

19 THE COURT: Okay.

20 MS. MAHONEY: I would expound upon the fact that  
21 Ms. Hocking interviewed with the government on multiple  
22 occasions. Most of it was done by video conferencing from my  
23 office with the agent and AUSA out in California and Ms. Hocking  
24 and her counsel. I would also note that she allowed -- she  
25 provided documentation that she had in her possession and she

1 also allowed the government access briefly to her e-mail account  
2 I think to obtain some additional documents that may have been  
3 there, which is incredible. I've never seen that done actually,  
4 so that was unusual also.

5 THE COURT: All right. Thanks very much.

6 Mr. Parrish, do you want to talk about the 5K1.1  
7 motion, or do you want to wrap it with the rest of your  
8 arguments, or how do you want to handle it?

9 MR. PARRISH: I could make just a couple of brief  
10 comments on it right now, Judge.

11 THE COURT: Yes.

12 MR. PARRISH: As the court has pointed out, this is an  
13 unusual process where the individual provided extraordinary  
14 information. However, we believe, Judge, it actually started  
15 before that, and I know Ms. Mahoney came into this case after  
16 Mr. Locher left. I was involved in the case prior to that time.  
17 We had a couple of sessions -- I don't know whether she found it  
18 in her notes or not -- where we came over I think prior to any  
19 charges coming up in California. It may have been me who also  
20 initiated the contact in California where they indicated they  
21 may want her to come out there because, as you know, there was  
22 charges pending out there and there were charges pending here.  
23 She came down and we went through all of the information that  
24 she had provided with regard to her conduct here in Iowa, and  
25 the reason it was delayed initially is because they indicated

1 that they may need her assistance out in California earlier.

2 So it actually started before those debriefing  
3 sessions that we ultimately ended up with after her plea. So we  
4 think some additional credit should be given to her based upon  
5 her earlier cooperation. So I just wanted to put in context  
6 that I know Ms. Mahoney didn't do it, but it's probably in her  
7 file that we actually came down and had several meetings with  
8 Mr. Locher before he left the office.

9 THE COURT: Okay.

10 MS. MAHONEY: Your Honor, I can clarify that. Agents  
11 attempted to interview Ms. Hocking on September 2nd of 2011.  
12 She obtained the representation of Mr. Parrish and they  
13 interviewed her I believe on October 9th of 2012 with  
14 Mr. Parrish, and that was obviously prior to her being charged.  
15 That was, of course, useful in our prosecution of her.

16 THE COURT: All right. Thank you.

17 Okay. And I'm not understanding correctly from the  
18 memo I got from probation. Is there agreement on the amount of  
19 the restitution or not?

20 MR. PARRISH: We talked about that and Ms. Mahoney can  
21 address that, Judge. I think we are.

22 THE COURT: Okay.

23 MR. PARRISH: On the amount of -- I'll tell you what  
24 was going back and forth.

25 THE COURT: Okay.



1 MR. PARRISH: There was some numbers added in, and  
2 when we were sending e-mails between the three of us, there were  
3 some clarifications coming in from John Vincent out in  
4 California, and I think we've kind of worked that through now.  
5 And when I got back from Marshalltown yesterday, Ms. Mahoney had  
6 sent me some additional materials. So I think we're on the same  
7 page on the matter of restitution.

8 THE COURT: All right. Let me just tell you what I  
9 think I understand the loss amount to be, and then you correct  
10 me if I'm wrong. We can make a record on this. I have the  
11 National Mortgage losses out in eastern California and then I  
12 have six amounts from FHA. The National Mortgage amount, I have  
13 455,123. The six FHA loss amounts, I have 336,897.74.  
14 Therefore, I have a total loss amount and mandatory restitution  
15 amount of 792,507.50.

16 MR. PARRISH: I think, Judge, let me make sure I'm  
17 right here. Page 9, I believe it is -- what was your number for  
18 FHA, Judge?

19 THE COURT: The six FHA losses I had \$336,897.74.  
20 That's based upon the paragraphs 22 through 27 --

21 MR. PARRISH: Okay.

22 THE COURT: -- the amounts that were listed there.

23 MR. PARRISH: Is that the number you ended up with,  
24 Kelly?

25 MS. MAHONEY: I think that's very close to what we

1 have, Your Honor. I apologize, I was still putting numbers  
2 together as of yesterday.

3 THE COURT: No, that's all right.

4 MS. MAHONEY: If I could have just one moment?

5 THE COURT: Yes.

6 (Pause.)

7 THE COURT: Okay. I was missing \$486.76. So now I  
8 have the National City Mortgage, the eastern California amount  
9 is 455,609.76, which is the two items of the 455,123 plus  
10 486.76.

11 MS. MAHONEY: And I have for the court, too, which  
12 these were provided to probation in advance, and these were  
13 numbers reflected in the PSR, but Government's Exhibits 1  
14 through 3.

15 Government Exhibit 1 is spreadsheet for the Southern  
16 District of Iowa loss amounts, and then Exhibits 2 and 3 are the  
17 loss statement from California.

18 Exhibit No. 2 specifically would refer to the  
19 presentence report, paragraph No. 17, I believe, and up toward  
20 the top it has the property address which is reflected in the  
21 PSR also.

22 Exhibit No. 3 would reflect the loss amount for  
23 paragraph 16a of the PSR.

24 For the Government's Exhibit, Exhibit No. 1, the first  
25 green column of \$352,325.03 is fairly close to the loss amount I

1 think the government would request for restitution. It does  
2 include interest. So we were actually working on figuring out  
3 what the interest amount was, if the court would just reduce it  
4 by that amount; but that would include the costs that the bank  
5 was required -- or the FHA was required to expend in order to  
6 maintain the property during the foreclosure and pending the  
7 sale.

8           So I think the second green column of \$195,322 is too  
9 low because it doesn't recognize those costs that I think the  
10 bank or FHA would be entitled to for restitution; but the -- and  
11 the court's number was a little bit below that, so it may be  
12 that that's the correct number, but we just need a second -- we  
13 can provide additional information providing what interest was  
14 included in the total amount of \$352,325 if the court wishes.

15           THE COURT: Okay. Well, the best thing for me is for  
16 you two to agree, or not. If you can't agree, I can decide it;  
17 but if you can agree, that, obviously, is preferred to coming  
18 back here and doing this again or me making an erroneous  
19 finding.

20           (Pause.)

21           MR. PARRISH: Judge, we're willing to do this, I  
22 think, perhaps work up some numbers. We've been exchanging  
23 numbers back and forth, and we need to figure out -- I don't  
24 think we're that far off on the numbers. So we can submit that  
25 to the court, if you might give us maybe seven days.

1 THE COURT: All right.

2 MR. PARRISH: Is that okay with you?

3 THE COURT: Okay. We'll do that.

4 Okay. The law, Ms. Hocking, gives you an opportunity  
5 before I hear from the lawyers about what they think the  
6 sentence is that is sufficient but not greater than necessary,  
7 which I have to do under the law. The law also gives you, as  
8 I'm sure Mr. Parrish has told you -- you can remain seated. The  
9 law gives you an opportunity to make any remarks you want. It's  
10 called your right of allocution under our rules. So if you want  
11 to say something, you can. You are under no obligation to say  
12 anything.

13 Do you have anything you would like to say?

14 THE DEFENDANT: No, Your Honor. I just want to --  
15 (Counsel conferring with defendant.)

16 THE COURT: You can, but you don't have to say  
17 anything, but you do have an opportunity to do so.

18 THE DEFENDANT: Yes, I do.

19 THE COURT: And if you're more comfortable sitting,  
20 you can sit. If you would rather stand, you can stand.

21 THE DEFENDANT: I can stand, Your Honor.

22 THE COURT: All right.

23 THE DEFENDANT: Thank you.

24 THE COURT: All right.

25 THE DEFENDANT: I just want to -- I know you only saw

1 me on paper, but you never saw me, and I just want you to know  
2 that I'm so proud to live in this country. I love this country.  
3 I love Iowa. That's why I choose to go back here. I'm feeling  
4 really shame on myself. I'm married to a great man who works in  
5 the law. I learned the law from him. And one of the things I  
6 learned is to love the country because in California, my in-laws  
7 were in the service in the second war, I had told my  
8 mother-in-law I'm so proud to be married to her son because it  
9 taught me how to love the land.

10           What I did I know was wrong. I bring shame on my  
11 family. I'm embarrassed of myself. I know there are people  
12 that knows me that respect me. I hope they understand and they  
13 forgive me for what I did.

14           I have two kids and I have my family here, and to  
15 them, especially my brothers, their families, they respect me  
16 for everything I was in because they came after me.

17           I appreciate the help of Mr. Parrish and he gives me  
18 kind words all the time to give me comfort, but I know what I  
19 did is wrong. My intention was not to hurt anybody. It was  
20 never to do anything wrong to hurt anybody. I -- sometimes with  
21 things, without thinking or without realizing the consequence,  
22 and I know the good Lord teaches that when you do something  
23 wrong, you have to be prepared for the consequence. I think  
24 today is my time to realize that, and I just want -- I know the  
25 Lord forgives me, and I hope and I just pray every single day

1 that the people that I hurt, they forgive me, too.

2 All this time since this has been really hard. I've  
3 been in pain and the pain that -- you know, when I see people  
4 and you don't know them and I've been thinking what would that  
5 person go through or when people would talk to me they would  
6 just know what I've been going through. There's not a day that  
7 I don't wake up with my morale soured, scared, thinking of my  
8 family and what I brought to them.

9 I just want to ask for forgiveness, and I just feel so  
10 sorry, sorry and embarrassed of what I did. I know that  
11 whatever happens to me is going to affect my family  
12 tremendously. I'm going to mar my kids for life and my husband.  
13 I cannot imagine the night after this for him or for anybody in  
14 his family. My co-workers, I've been blessed. I've been  
15 blessed to be working with the people that I work, and it's not  
16 that they didn't appreciate it when I did this, but it was not  
17 my intention to do any harm. There was not.

18 I'm just so sorry and I just want to live the life --  
19 I changed, and I changed completely and I just want to live a  
20 life of -- a better life for everybody, a better life to  
21 understand the kindness -- I just want people to have some  
22 compassion for me, and it's not as much as for me but for my  
23 family. I know they're going to suffer. I know they're going  
24 to suffer. We live together. We love each other.

25 And I'm so sorry, Your Honor. I'm sorry. I want to

1 say sorry to everybody in this country because they gave me the  
2 chance to come here and I think I've failed. I failed and I'm  
3 just sorry. I apologize to you, to my husband, to my kids, to  
4 everybody that knows me.

5 THE COURT: All right.

6 THE DEFENDANT: Thank you for giving me the  
7 opportunity to tell you.

8 THE COURT: Thank you very much.

9 Okay. Ms. Mahoney, I would hear from the government,  
10 although you've told me I think in your brief what you think a  
11 sufficient sentence is; but if you want to elaborate on those  
12 remarks, though, you may certainly do so.

13 MS. MAHONEY: Sure, Your Honor. And I think there's  
14 no need to go any higher than the starting point of the  
15 guideline range in this particular case, and we tried to reach a  
16 point where it did take into consideration the cooperation of  
17 Ms. Hocking, as well as her conduct in this prosecution which  
18 made it very easy for the government to move forward in this  
19 case. We do recommend the low end of the guideline range, and  
20 the recommendation for the cooperation is 35 percent with -- you  
21 know, obviously there's a possibility there may be an additional  
22 motion, but there also may not be in the future.

23 So if you have any other questions or want me to share  
24 any further comments, I would be happy to answer them; but  
25 otherwise I submit it with that.

1           THE COURT: And it's still the government's position  
2 that a prison sentence is appropriate?

3           MS. MAHONEY: Yes, Your Honor.

4           THE COURT: And, Mr. Parrish, I'll hear from you about  
5 what sentence the defendant believes is sufficient but not  
6 greater than necessary. And I did want to -- before you get  
7 into that, if you could specifically tell me, I had a couple  
8 of -- I've talked with the government about this before; but you  
9 made two points that I want to ask you about.

10           One, you quoted Judge Bright talking about the expense  
11 of imprisonment, and I've had this discussion with counsel for  
12 the government and other defense lawyers. My understanding of  
13 our law here in my circuit and your circuit is that I can't take  
14 that into account because there's an earlier Richard Arnold  
15 opinion on that, and so I know that other circuits say that we  
16 should, Judge Posner in particular. And so that's one question  
17 that I have.

18           Secondly, Judge Tunheim got reversed in a case called  
19 United States versus Ture, T-U-R-E, where one of your arguments  
20 here about Ms. Hocking is, Judge, she's got a mandatory  
21 restitution requirement, she can't be making restitution when  
22 she's deprived of her liberty by a prison sentence. Judge  
23 Tunheim got reversed on that case. The court said, well, you  
24 can't use that rationale -- because he did use that rationale to  
25 give probation. I think it was a tax case. And the Court of



1 Appeals said, if you use that rationale, the more a person  
2 defrauds victims, the more likely it is that they would be  
3 entitled to probation.

4           So those are two legal problems that I see. I don't  
5 want to concentrate on those because I know there are so many  
6 other issues that you've raised about nature and circumstances  
7 of the offense and history and characteristics of the defendant,  
8 and your brief was very helpful to me in understanding those  
9 factors. But just from a legal standpoint, you know, those are  
10 concerns that I had about, you know, the expense. If I use the  
11 expense as a rationale, I would think -- at least I think I  
12 would be committing legal error. And perhaps if the government  
13 wants to weigh in here because I've raised these after the  
14 government spoke, I'll hear from the government as well; but  
15 those were a couple of concerns I had that if you want to  
16 supplement your brief, you may do so, but you don't have to.

17           MR. PARRISH: Okay. Would you like me to start with  
18 those two points, Judge?

19           THE COURT: However you think is best.

20           MR. PARRISH: Probation knows I've been dealing with a  
21 couple of issues like this that have been floating through the  
22 system on the ability to pay back if, in fact, the individual is  
23 incarcerated and whether or not the court can use that as some  
24 factor. I would probably use it more to supplement the fact of  
25 history and characteristics that they made some efforts to pay

1 back, have they shown some remorse, have they shown some other  
2 factors that were helpful that you can tie into, well, this is a  
3 person under the 3553(a) factors who should get that opportunity  
4 based upon their life history to do that.

5           And then I would also make that same argument with  
6 regard to the -- I believe you mentioned the pure costs of  
7 prison. As you know, we -- in our briefs we try to address that  
8 solely as a point to push the courts forward on this idea that  
9 if you compare nonviolent offenders' productivity outside of the  
10 system as opposed to even a 12-month-and-a-day, which seems to  
11 be the kind of sentence that the courts tend to lean toward, the  
12 advantage I think goes to the nonviolent offender being outside  
13 of the system during that period of time. The costs of travel,  
14 the costs of incarceration, the costs to the family, which is  
15 not even included in that cost, being separated from their  
16 family when they may need the key breadwinner, those are all  
17 factors that we think the court ought to take a look at, not  
18 solely the pure cost of incarceration but the costs associated  
19 with that to the offender, too. That's why we think the court  
20 ought to take a look at it.

21           THE COURT: So your argument is on expense, it's just  
22 not the part of the probation report that refers to the yearly,  
23 monthly, and daily costs of incarceration; you're saying the  
24 private loss to the family and the defendant/wage earner that a  
25 noncustodial sentence would yield as opposed to a custodial

1 sentence?

2 MR. PARRISH: Correct. And it ties into the 3553(a)  
3 factors also.

4 THE COURT: You're trying to keep me from getting  
5 reversed.

6 MR. PARRISH: Correct.

7 THE COURT: Okay. I think I understand. Your  
8 argument is broader than the costs of incarceration.

9 MR. PARRISH: Correct.

10 THE COURT: All right. Thank you.

11 MR. PARRISH: Judge, let me start with one point with  
12 regard to Ms. Hocking. When I first met with Mr. Locher, we  
13 brought out after she told me certainly without knowing the full  
14 development of what had happened in California, which I think  
15 will go to the overrepresentation of the loss factor in the  
16 California case; but when I first interviewed her and she was  
17 going through the background of these cases and looking at her  
18 clientele, these were people who were on the threshold, which  
19 everybody pretty much acknowledges, including FHA, where they  
20 had to have this additional amount of money to make this loan  
21 work. What she did in her misconduct was provide this money to  
22 them and not disclose to the government through these forms that  
23 she was the person who had done that. Throughout this time --  
24 and she acknowledges her misconduct; but what she did was  
25 provide them the extra thousand dollars or \$1,500 indicating it

1 was from a relative or a friend or a family member as opposed to  
2 coming from her, and these were the loans that ultimately were  
3 foreclosed on. But these folks who she's talked about were  
4 people who had never owned a home before, who never would have  
5 had an opportunity to own a home.

6 And so, to some extent, even though she did make some  
7 income, which we are not denying, she was trying to help these  
8 folks because if you look at her history when she came into this  
9 country, she was trained basically as a secretary, and she was  
10 able to make some degree of success from that training. Her  
11 overall goal, even though it was incorrect, was to sort of help  
12 these folks so they could buy homes, and they were people who  
13 became her friends, who obviously referred other people to her  
14 and who entered a home for the first time.

15 Now, unfortunately, Judge, as we all know, some of  
16 these people were not able to keep up the loans, and I'm sure  
17 FHA's argument, which does make sense logically, is that had she  
18 not provided that these people would have never qualified and,  
19 consequently, these foreclosures would have never taken place.

20 But we all know, those of us who have bought homes  
21 over the years, that there are things such as family letters  
22 that they write and people who have these people who can provide  
23 2,500 bucks or \$3,000, they provide it. But that was the  
24 essence of what she did here in Des Moines.

25 In California -- and I won't bore the court with the

1 details because we laid it out in our brief as to what her  
2 conduct was, and that goes to the overrepresentation argument.  
3 In this instance we know that the individual who's now been  
4 indicted and facing trial is the person who did all of the  
5 paperwork, who will be jointly and severally liable, and we  
6 think that was kind of an overrepresentation. The bank made an  
7 enormous amount of money. This person was a bank officer who  
8 actually did the paperwork, who met with the people, who was  
9 well aware. So I realize it goes to restitution because she and  
10 the other person, if that person is convicted, would have to  
11 share in that payback; but in terms of the elements of the  
12 conduct itself that led to the loss amount, that loss amount  
13 should be joint and severally liable for both of these persons.  
14 Therefore, it's an overrepresentation on that level.

15           Also, there is some intervening causes here that we  
16 point out in our brief, and one was that clearly these  
17 individuals who actually signed off on the paperwork got the  
18 benefit of that property even for a short period of time. Had  
19 they continued making their payment, this would not have  
20 occurred. I'm not saying the misconduct did not occur, because  
21 we agree with that; but they didn't continue to make their  
22 payments. So that was an intervening cause to some extent that  
23 leads to the overrepresentation of this high amount because what  
24 we would love to have the court look at it as a 550,000 under  
25 the new guidelines, and that's what we kept arguing in our

1 brief, and I kept calling Ms. Mahoney, can't we do that, can't  
2 we get it down to that? Because it does go into the charge  
3 bargain when the court has an opportunity to look at it that way  
4 as opposed to the \$800,000 that we know that we're looking at.

5 We believe, Judge, that those two factors show that it  
6 was an overrepresentation, the loss amount based upon what her  
7 conduct was, because her conduct never could have been  
8 accomplished, though wrong, without the bank's participation or  
9 the bank officer's participation, who did make a lot of profit.

10 The third part of that equation, Judge, is that if you  
11 look at what her commission was in relation to the overall loss  
12 amount, there's such a great difference there that, again,  
13 that's an overrepresentation, because if you look at her  
14 commission, which was pretty minimal, even though she made it  
15 and, again, even though it was wrong and she's acknowledged that  
16 and is very remorseful about it, if you compare what she made in  
17 terms of what the loss amount comes out to be when -- we've made  
18 these arguments all along to Mr. Vincent and everyone else, that  
19 property values in California were up at that point and so  
20 that's the amount that you value it at. So if you look at  
21 California property values at that point and look that the  
22 bottom fell out at some point, that loss amount is  
23 overexaggerated.

24 So we believe that those factors should come into your  
25 analysis when you look at the loss amount, which gives you

1 grounds I believe to depart and give her at least some  
2 consideration for a probationary sentence.

3 I think her background, Judge, is remarkable. The  
4 fact that she had this modicum of success, considering her lack  
5 of a good education, training, she learned a lot on her own.  
6 She went to real estate school. She worked as a secretary at a  
7 company, a receptionist for a while, and she basically, as she  
8 has indicated, did everything to improve her life. And,  
9 obviously, she had some difficulties when she ran into these  
10 real estate problems.

11 So based upon that, Judge, under the 3553(a) factors,  
12 she's never been in trouble as the court has pointed out and  
13 she's pointed out. She was very remorseful. She came in and  
14 did everything in her power to try and work this out with the  
15 government, hopeful initially that perhaps charges wouldn't be  
16 filed, but obviously they were. But she then continued her  
17 cooperation after that, pleading both to the charge out in  
18 California and the one here in Iowa. And she has never failed  
19 in her cooperation. She has never so much as winced when asked  
20 these difficult questions and I think at this point that she  
21 even allowed government access to her e-mails, which they didn't  
22 have, which provided some insight into what the bank and the  
23 bank officer was doing out in California, and that was enormous  
24 and extraordinary.

25 For those reasons, Judge, we think the court should

1 give consideration to probation or some form of probation  
2 combined with house detention, which we believe is sufficient  
3 and no more than necessary. It would be unlikely, Judge --  
4 she's 64 years old. The last -- I think in March of this year,  
5 she's indicated to me that she was so stressed out by this she  
6 spent about a week-and-a-half in the hospital under stress. In  
7 the presentence report, she had never had counseling before in  
8 her life. Now to assist with her depression, she went through  
9 counseling.

10 We believe for those reasons, Your Honor, the court  
11 should consider some form of probation for Ms. Hocking.

12 THE COURT: All right.

13 MR. PARRISH: Thank you, Judge.

14 THE COURT: Thank you very much.

15 The record should show the court has read the  
16 presentence report, the memorandum submitted by the government  
17 and the defendant. The court earlier agreed with the counsel's  
18 calculation of the advisory guideline offense level of 17, a  
19 criminal history category I under the 2015 guideline, which the  
20 court is using. The Commission advises that the appropriate  
21 sentence is somewhere between 24 and 30 months.

22 The court has a motion from the first matter from the  
23 guideline is the 5K1.1 motion of the government. The government  
24 says the defendant is entitled to a 35 percent for her very  
25 timely cooperation. The court is going to reduce -- from the



1 bottom of the guideline, the court is going to reduce the  
2 sentence by 40 percent. So I'm going to be going from 24 to 15.

3 The court then must apply the 3553(a) factors that are  
4 contained in the sentencing statute. The two principal ones are  
5 the nature and circumstances of the offense, here a long running  
6 practice of the defendant to help out prospective purchasers of  
7 real estate both in eastern California and southern Iowa.

8 The nature and circumstances of the offense indicate  
9 that it's a very serious offense given that Congress believed  
10 that the maximum sentence should be 30 years. This is among the  
11 most serious offenses that the government prosecutes here.

12 The history and characteristics of the defendant, by  
13 all accounts the defendant has a compelling personal narrative,  
14 including her work ethic, her devotion to her family. Her  
15 remorse and shame is obvious from her coming forward to  
16 cooperate with the government early, and her allocution further  
17 confirms to the court her remorse and sincerity.

18 The court is going to reduce the sentence from 15  
19 months to six months imprisonment. The court believes that this  
20 serious offense with these consequences and the other 3553(a)  
21 factors merit a sentence of incarceration that will reflect the  
22 seriousness of the offense and promote respect for the law as  
23 well as provide just punishment for the offense.

24 The court notes in her allocution I don't believe that  
25 the defendant disagrees that some punishment is appropriate

1 here. This will provide both adequate deterrence to further  
2 criminal conduct. I don't think the public needs further  
3 protection from his defendant. She doesn't appear to be likely  
4 to be back before the criminal justice system. She needs no  
5 educational or vocational training, no medical care that the  
6 court is aware of.

7           The court is going to permit, because I didn't see any  
8 objection to this, the defendant the privilege of  
9 self-reporting. The court is going to permit the defendant to  
10 self-report to a federal correctional facility assigned by the  
11 Bureau of Prisons by January 26th -- oh, I'm going on '14 here.

12           The defendant will be allowed the privilege of  
13 self-reporting to a federal correctional institution designated  
14 by the Bureau of Prisons on or before January 20, 2016. If that  
15 doesn't happen, if we don't have a designation, Mr. Parrish,  
16 from the BOP or, Ms. Mahoney, you get ahold of my office, we'll  
17 extend the date of her self-report. On the other hand, if the  
18 case goes to trial in eastern California or pleads, maybe you  
19 want to give me further information under Rule 35.

20           Upon release from imprisonment, the defendant shall be  
21 on supervised release for a term of five years as to Counts 1  
22 and 2 of the information that the government filed. These will  
23 be served concurrently. The defendant must report to the  
24 probation office in the district to which she's released within  
25 72 hours of her release. The defendant shall not commit another

1 federal, state, or local crime. The defendant shall not  
2 unlawfully possess a controlled substance. There's no drug test  
3 requirement. I didn't see any need for a drug-testing  
4 requirement in any of the presentence report. The defendant  
5 shall not possess a firearm, ammunition, destructive device, or  
6 other dangerous weapon. The defendant shall cooperate in the  
7 collection of her DNA.

8 Counsel, if you'll look at paragraphs 101, 103, 104  
9 and 106, those seem to me to be appropriate conditions of  
10 supervision that I'm going to place in the judgment, unless  
11 there's some record here that either of you think are  
12 inappropriate issues, we should probably discuss it now as  
13 opposed to having had some appeal be taken from the judgment.

14 Ms. Mahoney, does the government have any objection to  
15 any of those paragraphs being made special conditions of  
16 supervision?

17 MS. MAHONEY: No, and I think they're appropriate.

18 THE COURT: All right. Mr. Parrish, do you see  
19 anything inappropriate about the use of those?

20 MR. PARRISH: Did you say 101, 102 --

21 THE COURT: No, no; 101, 103, 104, 106.

22 MR. PARRISH: Okay. No, Your Honor.

23 THE COURT: Okay. The determination of restitution is  
24 deferred pending receipt within seven days of today's date from  
25 counsel who indicate they're in agreement with what amount

1 should be placed in the J & C. The defendant must make  
2 restitution to the payees that include PNC Bank in Pittsburgh  
3 and the Financial Operation Center of the Federal Housing  
4 Administration in Albany, New York. The court determines the  
5 defendant does not have the ability to pay interest, and I order  
6 the interest amount therefore waived. In addition to the  
7 restitution amount, the court orders a \$100 special assessment  
8 be ordered paid by the defendant.

9 The court adopts the presentence investigation with  
10 the change that I did not assign two additional offense levels  
11 for abuse of a position of trust.

12 Mr. Parrish or -- oh, it's a \$200 special assessment.  
13 There's two counts of conviction.

14 Mr. Parrish or Ms. Mahoney, are there any other  
15 matters the court has to attend to before I advise the defendant  
16 of her right of appeal?

17 MS. MAHONEY: No, Your Honor.

18 MR. PARRISH: No, Your Honor.

19 THE COURT: All right. Ms. Hocking, this is a final  
20 judgment of the district court. You have a right to appeal the  
21 judgment to the Court of Appeals if you think it contains error.  
22 If you want to take the appeal, you have to file a written  
23 notice with the Clerk of Court, serve a copy on the U.S.  
24 Attorney's office. You have to do all of that within 14 days.

25 The law further requires that I inform you that if you

1 want a lawyer to help you with the appeal and you can't afford a  
2 lawyer, I have to appoint a capable lawyer to represent you on  
3 the appeal.

4 Ms. Hocking, do you have any questions about the  
5 judgment that's been entered today, your privilege of  
6 self-reporting, or about your right of appeal?

7 THE DEFENDANT: No, Your Honor.

8 THE COURT: All right.

9 THE DEFENDANT: Thank you.

10 THE COURT: Okay. And the court -- additionally, the  
11 government offered three exhibits. The court didn't rule. I'm  
12 going to accept the three exhibits of the government. They will  
13 be received.

14 (Government Exhibits 1 through 3  
15 were received in evidence.)

16 THE COURT: We'll be in recess.

17 MR. PARRISH: Thank you, Your Honor.

18 (Proceedings concluded at 10:45 a.m.)  
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## 1 C E R T I F I C A T E

2 I, the undersigned, a Certified Shorthand Reporter of  
3 the State of Iowa, do hereby certify that I acted as the  
4 official court reporter at the hearing in the above-entitled  
5 matter at the time and place indicated.

6 That I took in shorthand all of the proceedings had at  
7 the said time and place and that said shorthand notes were  
8 reduced to computer transcription under my direction and  
9 supervision, and that the foregoing computer transcription pages  
10 are a full and complete transcript of the shorthand notes so  
11 taken.

12 Dated at Des Moines, Iowa, this 20th day of October,  
13 2016.

14

15

16

17 /s/ Terri L. Martin  
18 CERTIFIED SHORTHAND REPORTER

19

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